

Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of)

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Federal Communications Commission
Office of Secretary

Amendment of Section 73.202(b))

MB Docket No. 05-243

Table of Allotments)

)

FM Broadcast Stations)

)

(Meeteetse, Wyoming))

)

To: Marlene H. Dortch, Secretary, Federal Communications Commission, Office of the Secretary
Attn: Assistant Chief, Audio Division, Media Bureau

Reply Comments

Brigham Young University-Idaho ("BYU-I"), licensee of noncommercial educational FM station KBYI(FM), Channel 263C1, Rexburg, Idaho, by its counsel, hereby submits these Reply Comments in response to the Notice of Proposed Rulemaking, DA 05-2205 (rel. Jul. 29, 2005 ("*NPRM*") in the above-captioned proceeding. Specifically, BYU-I files these Reply Comments to object to the counterproposal filed on September 19, 2005 by Sand Hill Media Corporation and Sand Hill Media Group, LLC (jointly "SHM") to the extent the counterproposal requests that the Commission issue an Order to Show Cause to BYU-I to show why BYU-I's channel should not be changed from 263C1 to 232C1.

By way of background, on July 27, 2005, the Audio Division, on its own motion, issued an *NPRM* proposing the simple substitution of Channel 259C for vacant Channel 273C at Meeteetse, Wyoming to resolve a spacing conflict with licensed station KHOC(FM), Channel 273C, Casper Wyoming. Two counterproposals were filed in response to the *NPRM*.¹ The SHM

¹ In addition to the SHM counterproposal, a joint Counterproposal was filed by Millcreek Broadcasting, LLC, Simmons SLC-LS, LLC, 3 Point Media – Coalville, LLC, 3 Point Media – Delta, LLC, and College Creek Broadcasting LLC on September 19, 2005 in the above captioned proceeding (MB Docket No. 05-243). BYU-I takes no position on either the Commission's initial proposal or the other counterproposal filed in this proceeding.

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counterproposal contemplates *eight changes to the existing table of allotments and a forced move of station KBYI(FM)* to a new channel.

KBYI(FM) has served the Rexburg community on channel 263C1 for over 21 years. A move to a new frequency will disrupt the listening habits of the KBYI(FM) audience and may in fact result in a loss of audience. Further, the cost of modifications to equipment and promotional materials concerning the station frequency is of great concern to noncommercial educational broadcaster BYU-I (notwithstanding SHM's assurance that it will reimburse BYU-I for "reasonable expenses" in changing channels). KBYI(FM) already operates on the thinnest of margins. *Any* un-reimbursed expense associated with the implementation of SHM's counterproposal will be highly detrimental to the KBYI(FM) operating budget.

The Commission has previously recognized that proposals involving more than two other channel substitutions of channels occupied by existing licensees are disruptive to licensees and the listening public.² Further, complex, multiple channel change proposals are frequently not implemented, making the processing of complex proposals a waste of valuable Commission resources.³ It is for these very reasons that the Commission has stated:

[W]e are advising potential petitioners for rule making that absent special factors involving significant public interest benefits, or an assurance of agreement among affected stations to the proposal in advance of filing the petition, the staff has been instructed not to entertain proposals for changes in the FM Table of Allotments which involve more than two other substitutions of channels occupied by existing FM or TV stations.⁴

² *Columbus, Nebraska*, 55 RR 2d 1184, 1185 (1986).

³ *Id.*

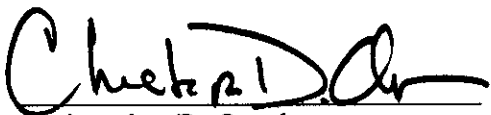
⁴ *Id.* The efficacy of this policy was recently acknowledged by the Commission in a pending rulemaking proceeding in which it is considering revisions to procedures utilized to amend the FM table of allotments. *In the Matter of Revision of procedures Governing Amendments To FM Table of Allotments and Changes Of Community of License in the Radio Broadcast Services*, FCC 05-120, *Notice of Proposed Rulemaking*, MB Docket No. 05-210 at para. 36 (re. Jun. 14, 2005)

SHM's counterproposal involves *eight* changes to the table of allotments. Moreover, SHM did not obtain BYU-I's agreement to the proposed amendments to the table of allotments prior to the filing of its counterproposal.⁵ Additionally, SHM has not demonstrated that "significant" public interest benefits will result from the numerous changes it proposes to the table of allotments or that any such benefits warrant the disruption to the public that would inevitably follow if KBYI(FM) is involuntarily forced to change channels. Thus, the SHM counterproposal is inconsistent with the Commission's decision in *Columbus, Nebraska*.

For the reasons set forth above, BYU-I objects to the changes to the table of allotments proffered by SHM in its counterproposal to the extent such changes are predicated upon the Commission issuing an Order to Show Cause to BYU-I to show why BYU-I's channel should not be changed from 263C1 to 232C1.

Respectfully submitted,

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(stating "Implementation of the 'Columbus, Nebraska Policy' has dramatically reduced burdens on the staff."). In this rulemaking proceeding the Commission proposes to prohibit petitions or counterproposals that propose more than five changes to the table of allotments – even if there is agreement among the parties – unless the proponent or counter-proponent can demonstrate that special factors involving significant public interest benefits warrant such amendments.

⁵ The Commission has recognized that the process for agreeing on appropriate amounts of reimbursement can be time consuming, sometimes lasting for years. *Columbus, Nebraska* at 1185.

CERTIFICATE OF SERVICE

I, Paula Lewis, do hereby certify that a copy of the foregoing "Reply Comments" was served this 4th day of October 2005, via first class U.S. Mail, on the following:

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